



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

ALEXABDER M. GERASIMOW
ALLEN-BRADLEY COMPANY, LLC
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204-2496

COPY MAILED

SEP 18 2006

Director's Office
Office of Patent Publication

In re Application of
EL-IBIARY, YEHLA
Application No. 10/675,723
Filed: September 30, 2003
Attorney Docket No. 03RE019

:
:
:
:
:

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R. § 1.181(a) To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark Office (USPTO) on August 16, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed December 20, 2005. The Notice of Abandonment, mailed on June 14, 2006 indicates, "The submitted fee of \$0 is insufficient. A balance of \$1,700 is due."

Petitioner states that the Patent Office received and deposited a check to replenish the Assignee's deposit account, but failed to timely credit the proper deposit account. Also, that the Deposit Account Division corrected the error after notification by the Assignee.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on February 27, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 01-0857. On July 1, 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fees.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted.”

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

Investigation by the Office of Finance reveals that the replenishment check in the amount of \$37,780.00 was posted on February 23, 2006 to Deposit Account No. 18-1750, one of the two deposit accounts.

Since, it appears an account number was not cited on the replenishment check and in the absence of any specific instruction, the Finance operator made the determination to deposit the money into Deposit Account No.18-1750. As result thereof, Deposit Account No. 01-0857 did not have a sufficient balance to charge the required fees.

Therefore, in light of the lack of a specific identification of the account to be replenished and non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

The replenishment amount was later transferred from Deposit Account No.18-1750 to 01-0857.

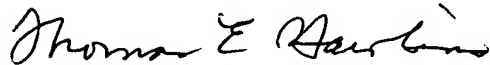
Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 Office of Petitions
 P O Box 1450
 Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications